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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,562	04/19/2001	Edward Larry McCleary	12439.101B	7515

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EXAMINER

FONDA, KATHLEEN KAHLER

ART UNIT PAPER NUMBER

1623

DATE MAILED: 10/02/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/837,562

Applicant(s)

MCCLEARY, EDWARD LARRY

Examiner

Kathleen Kahler Fonda, Ph.D.

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Peri d f r R ply - Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____ .
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disp sition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-52 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____ .
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of R ferences Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ .
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____ .
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____ .

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This application contains claims directed to numerous patentably distinct compositions and methods of using them for normalizing impaired or deteriorating neurological function. Each composition comprises at least seven different agents.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed for each of ingredients (A)-(F) for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, all claims are generic or subgeneric.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Papers relating to this application may be submitted to Technology Center 1600 by facsimile transmission. The number of the fax machine for official papers in Technology Center 1600 is (703) 308-4556. Any document submitted by facsimile transmission will be considered an official communication unless the cover sheet clearly indicates that it is an informal communication.

INTERNET INFORMATION: Secure and confidential access to patent application status information is now available; see <http://www.uspto.gov/ebc/index.html> for more information. Also, <http://www.uspto.gov/web/offices/ac/comp/fin/clonedefault.htm>

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may be used to pay patent maintenance fees, pay non-filing application fees, and maintain USPTO deposit accounts.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kathleen Kahler Fonda, at telephone number (703) 308-1620. Examiner Fonda can generally be reached Monday through Friday from 7:30 a.m. until 5:00 p.m. If the Examiner cannot be reached, questions may be addressed to Supervisory Patent Examiner James O. Wilson at (703) 308-4624. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-1235.



Kathleen Kahler Fonda, Ph.D., J.D.
Primary Examiner
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